

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1, 6, 7, 9-15 and 18, 21 and 23 are pending in this application. Claims 1, 11, and 23 are independent. Claims 1, 9, 10, 11, and 23 are hereby amended. It is submitted that these claims, as originally presented, were in full compliance with the requirements 35 U.S.C. §112. No new matter has been introduced by this amendment. Support for this amendment is provided throughout the specification, specifically at Figures 7, 8, and 9 and on pages 9, 10, and 11. Changes to claims are not statements with respect to patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112 beyond the remarks herein. Rather, these changes are made simply for clarification and to round out the scope of protection to which the Applicants are entitled.

II. SUPPORT FOR THIS AMENDMENT

Citations to Figures and Specification locations are provided. However, such citations are provided merely as examples and are not intended to limit the interpretation of the claims or to evidence or create any estoppel.

As an example, support of the amendment can be found at Figures 7, 8, and 9 and pages 9, 10, and 11 of the Specification.

III. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1, 6, 9-13 and 21 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,133,909 to Schein, et al (hereinafter, merely “Schein”) in view of U.S. Patent No. 5,469,354 to Hatakeyama, et al. (hereinafter, merely “Hatakeyama”) and further in view of U.S. Patent No. 7,165,098 to Boyer, et al. (hereinafter, merely “Boyer”).

Claims 9 and 10 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Schein, Hatakeyama, and Boyer, and further in view of U.S. Patent No. 6,134,547 to Huxley, et al. (hereinafter, merely “Huxley”).

Claim 7 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Schein in view of Hatakeyama, and Boyer and further in view of U.S. Patent No. 6,598,039 to Livowsky et al.

Claim 14 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Schein in view of Hatakeyama, and Boyer and further in view of U.S. Pre Grant Publication No. 2003/0014753 to Beach et al.

Claims 15 and 23 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Schein in view of Hatakeyama, and Boyer and further in view of Livowsky.

Claim 18 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Schein in view of Hatakeyama, and Boyer and further in view of U.S. Patent No. 6,463,428 to Lee et al.

IV. RESPONSE TO REJECTIONS

Applicants respectfully submit that Schein, Hatakeyama, and Boyer, taken alone or in combination, fail to suggest or render predictable 1) pre-designating a particular database from among a plurality of databases, including an electronic-program-guide database, a movie information database, and a drama information database; 2) selecting a route to the particular database that is pre-selected as a function of stored access information and stored path information; and 3) searching electronic-program-guide data from the particular database that is pre-selected as a function of the input retrieval keyword and the at least one extracted additional keyword., as recited in claim 1.

Claim 1 recites, *inter alia*:

...pre-designating one particular database from among a plurality of databases, including an electronic-program-guide database, a movie information database, and a drama information database,

wherein each of the plurality of databases are provided in separate data servers for distributed arrangements at different locations;

selecting a route to the one particular database via a routing server comprising: a storage unit for storing information on a path to each of the plurality of databases; and an access unit for accessing each of the plurality of databases;

searching electronic-program-guide data from the particular database that is pre-designated as a function of the input retrieval keyword and the at least one extracted additional keyword. (Emphasis Added)

As understood by Applicants, Schein relates to a method and apparatus for searching a guide and using a user's input of desired program characteristics to identify particular programs that may be of interest to the user.

Applicants submit that nothing has been found in Schein, Hatakeyama, or Boyer that would teach the above-identified features of claim 1.

Therefore, Applicants submit that independent claim 1 is patentable.

For reasons similar to those described above with regard to independent claim 1, independent claims 11 and 23 are patentable.

Therefore, Applicants submit that independent claims 1, 11 and 23 are patentable.

V. DEPENDENT CLAIMS

The other claims in this application are each dependent from one of the independent claims discussed above and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

CONCLUSION

Similarly, because Applicants maintain that all claims are allowable for at least the reasons presented hereinabove, in the interests of brevity, this response does not comment on each and every comment made by the Examiner in the Office Action. This should not be taken

as acquiescence of the substance of those comments, and Applicants reserve the right to address such comments.

Because Applicants maintain that all claims are allowable for at least the reasons presented hereinabove, in the interests of brevity, this response does not comment on each and every comment made by the Examiner in the Office Action. This should not be taken as acquiescence of the substance of those comments, and Applicants reserve the right to address such comments.

In particular, Applicants note that the Office Action takes Official Notice that a number of features are “well-known” and “common,” including:

- Regarding claims 1 and 11, at page 4 of the Office Action as well as claims 23, at page 6 of the Office Action: “Examiner takes further notice that databases that drama type programming (e.g. Japanese drama) was known in the art at the time of the invention.”
- Regarding claim 9, on page 10 of the Office Action: “ Examiner further takes Official Notice that at the time of the invention, programs of cooking genre were well known in the art at the time and as such EPG contained program information of programs related to cooking genre.”

Applicants agree that drama programs and cooking shows were known, but not that that “databases that drama type programming (e.g. Japanese drama) was known in the art at the time of the invention” or that “such EPG contained program information of programs related to cooking genre.” Applicants respectfully traverse, and further note that the Official Notice was not cited in the recitation of the grounds of rejection. However, the Examiner’s reasons to

modify the references with “common knowledge” and what is “known” seem to come from the Office Action’s own deduction that such modifications would be advantageous and not unexpected. Thus present Office Action relies on Official Notice in order to reject the claims. Applicants respectfully traverse.

First, Applicants respectfully assert that Official Notice is an insufficient basis to suggest the features and modifications above without using Applicants’ specification as a blueprint.

Second, Applicants contend their combination of elements in the context information of an electronic-program-guide retrieval system and a plurality of databases as claimed is not at the time of the invention capable of instant and unquestionable demonstration so as to defy dispute.

From the MPEP 2144.03(E): “Any rejection based on assertions that a fact is well-known or is common knowledge in the art without documentary evidence to support the examiner’s conclusion should be judiciously applied. Furthermore, as noted by the court in *Ahlert*, any facts so noticed should be of notorious character and serve only to ‘fill in the gaps’ in an insubstantial manner which might exist in the evidentiary showing made by the examiner to support a particular ground for rejection. *See, for example, In re Zurko*, 258 F.3d 1379, 1386; *In re Ahlert*, 424 F.2d 1088, 1092.”

Further, “[a]s noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be ‘capable of such instant and unquestionable demonstration as to defy dispute.’ (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)).” MPEP 2144.03 (emphasis added).

The Applicants contend the features of the claims are not of notorious character nor insubstantial, as asserted in the Office Action. The combination of features recited in those

claims is not capable of “instant and unquestionable demonstration as to defy dispute.” These features are neither “basic knowledge” nor “common sense.” *In re Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002) (“Deficiencies of the cited references cannot be remedied by the Board’s general conclusions about what is ‘basic knowledge’ or ‘common sense.’”).

Applicants contend that the claims recite substantive features that can not be overcome with Official Notice. Thus, in accordance with MPEP 2144.03(D) and so that the record of prosecution be complete, Applicants respectfully request the documentary evidence under 37 C.F.R. 104(c)(2) of the elements recited in claims, or an affidavit of the Examiner under 37 C.F.R. 104(d)(2) setting forth specific factual statements and explanation to support the facts asserted to combine the cited references.

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By 

Thomas F. Presson
Reg. No. 41,442
Brian M. McGuire
Reg. No. 55,445
(212) 588-0800